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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,431	03/30/2004	Alexei Kojenov	SJO920030085US1	5731
46917, 7590, 04/16/2007 KONRAD RAYNES & VICTOR, LLP. ATTN: IBM37 315 SOUTH BEVERLY DRIVE, SUITE 210 BEVERLY HILLS, CA 90212			EXAMINER DAYE, CHELCIE L	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 04/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/814,431

Applicant(s)

KOJENOV ET AL.

Examiner

Chelcie Daye

Art Unit

2161

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 02 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

*[Handwritten signature]*  
APR 02 2007  
SPE, TC 2161

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues, Maurer does not disclose "backing up contents of a source device at a first client station as at least one object of a database stored in a data storage subsystem wherein the at least one object represents an image of the contents of the source device". Examiner respectfully disagrees. Maurer discloses at paragraphs [0058] and [0060-0061], wherein "the use of BCV devices enables a host such as the source host computer system, to utilize copies of the data in the standard volumes" and "the host may continue transaction processing ... while respective mirror images on BCV's are used to back up data in cooperation with the backup system ... The direction of data flow for backup is from the data storage system to the backup system ... The direction of data flow for restore is to the data storage system". Examiner interprets the host to correspond to the source device at the first client station and the mirror images is the content. Therefore, the argued limitation has been fully disclosed.

Applicant argues, Maurer does not disclose "using the at least one object, restoring the contents of the source device from the at least one object to a file in a file system stored on a storage device". Examiner respectfully disagrees. Maurer discloses at paragraphs [0109-0110]; wherein information is archived on redo log files and the information that will be used in a restore operation is kept there. Then, the process for restoring volumes begin by determining if the restore is to come from a business continuance volume (BCV) or a tape. After such determination is made cleanup begins. Examiner interprets the volumes within the BCV to correspond to a file. Also, paragraph [0140] of the Maurer reference further discloses where the system discovers, for the physical device, the file system name being restored. As such, examiner believes the limitation as stated above has been fully disclosed.

Applicant argues, Maurer does not disclose " a flat file contains the restored contents of a source device". Examiner respectfully disagrees. Maurer discloses at paragraph [0074], wherein a map of the logical information to physical devices on the source computer is created in the form of a flat file. Then, the map is used to build a substantially identical logical configuration on the target computer. Since the system allows for the information to be created and stored in the form of a flat file and the flat file format along with the information is backed up from the source computer to the target computer. When the restoring process occurs, the information that has been backed up is still within the flat file formation and is therefore manipulated as such. Also, as an alternative example, paragraph [0102] of the Maurer reference, further disclose using the flat file to map the volume information from one computer system to another. Again, since the information being mapped is within a flat file when the process of backing up the system and restoring the system occurs (paragraphs [0103] and [0110]) the information is maintained in the flat file format. Therefore, the argued limitation has been fully disclosed.